STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED January 27, 2005
v	No. 250562 Oakland Circuit Court
STEPHEN CRAIG EDELEN, Defendant-Appellant.	LC No. 2003-188161-FH

Before: Hoekstra, P.J., and Cavanagh and Borrello, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of felon in possession of a firearm, MCL 750.224f, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b, entered after a bench trial, on the ground that the search that resulted in the confiscation of the weapons was invalid. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant pleaded guilty of operating a vehicle under the influence of intoxicating liquor, third offense, MCL 257.625, and was placed on probation. As a condition of his probation, he agreed that the probation office, in conjunction with the police department, was entitled to make unannounced visits to his home to ensure that he was complying with the terms of his probation. Probation agents and deputy sheriffs made an unannounced visit to defendant's home. Defendant granted the team entry and permission to search. The search revealed weapons and small amounts of cocaine and marijuana. Defendant was charged with possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), possession of marijuana, MCL 333.7403(2)(d), felon in possession of a firearm, and two counts of felony-firearm.

Defendant moved to quash or for an evidentiary hearing, arguing that his consent to unannounced searches as a condition of his probation was coerced and therefore invalid. The trial court denied the motion, concluding that by accepting the conditions of his probation, defendant consented to allow entry into and searches of his home. Defendant pleaded guilty of possession of less than twenty-five grams of cocaine and possession of marijuana, and was convicted in a bench trial of felon in possession of a weapon and two counts of felony-firearm.

The consent exception to the warrant requirement allows search and seizure when consent is unequivocal and specific, and freely and intelligently given. *People v Galloway*, 259 Mich App 634, 648; 675 NW2d 883 (2003). The validity of consent depends on the totality of

the circumstances, although consent can be valid even if a person is not apprised of his right to refuse consent. *People v Borchard-Ruhland*, 460 Mich 278, 294; 597 NW2d 1 (1999).

In *People v Hellenthal*, 186 Mich App 484, 486; 465 NW2d 329 (1990), a panel of this Court rejected the reasoning in *People v Peterson*, 62 Mich App 258; 233 NW2d 250 (1975), and held that the waiver of the right against unconstitutional searches and seizures can properly be made a condition of a probation order where the waiver is reasonably tailored to the defendant's rehabilitation. The record before us does not provide sufficient information from which we can conclude that the waiver of defendant's right to be free from unconstitutional searches and seizures was reasonably tailored to his probation. However, we affirm the trial court's denial of defendant's motion to quash and his convictions because his consent to the search of his home was valid.[1] Defendant permitted the team to enter his home and, when asked, gave consent for a search. No evidence showed that the team insisted that it be allowed to enter or search the home. The fact that defendant was not told that he could refuse consent to search does not mandate a conclusion that consent was not freely given. *Borchard-Ruhland*, *supra*. Under the totality of the circumstances, defendant's consent was unequivocal and freely given. *Galloway*, *supra*.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Mark J. Cavanagh
/s/ Stephen L. Borrello

[1] We can affirm a trial court's decision if the trial court reached the correct result for the wrong reason. *People v Chapman*, 425 Mich 245, 254; 387 NW2d 835 (1986).